

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

David E. Jones,)	
)	
Plaintiff,)	
v.)	
)	C.A. No. 99-722-SLR
State of Delaware,)	
Dr. Miller, Dr. Magsonic,)	
Dr. Enoli)	
)	
Defendants.)	

MEMORANDUM ORDER

I. INTRODUCTION

Plaintiff David E. Jones, A/K/A Walter L. Jones, is currently incarcerated in the Sussex Correctional Institution in Georgetown, Delaware. Named as defendants in the complaint are the State of Delaware and three doctors employed by the Delaware Correctional Center ("DCC") in Smyrna, Delaware. Procedurally, the court is faced with a motion to dismiss from all defendants.

II. FACTS

Plaintiff's complaint arises from an accident that occurred on May 17, 1997 in the DCC. Plaintiff was struck on the right side of the head by a light fixture.¹ That same day he was seen by doctors at the DCC who treated him for the head injury.²

¹ The complaint does not describe the accident in any greater detail.

² Presumably the defendants are the doctors who treated him the day of the injury although they are not named specifically within the complaint.

On June 4, 1998, more than a year after the incident, while at the Sussex Work Release Center, he was sent to Beebe Hospital for an M.R.I. He states that results showed a subdural hematoma on the right side of his head and he was sent to see Dr. Venkataramana, a neurosurgeon, by the doctor at Sussex Work Release Center. Plaintiff alleges Dr. Venkataramana recommended that he receive an operation to remove the fluid from his brain. Plaintiff claims that the defendants violated his civil rights by not giving him the proper treatment.

III. STANDARD OF REVIEW

In deciding a motion to dismiss under Rule 12(b)(1), a court generally considers the allegations contained in the complaint, exhibits attached to the complaint and matters of public record. Pension Benefit Guar. Corp. v. White Consol. Indus., Inc., 998 F.2d 1192, 1196 (3d Cir. 1993). In ruling on a 12(b)(1) motion the factual allegations of the complaint must be accepted as true. Cruz v. Beto, 405 U.S. 319, 322 (1972) (per curiam). Moreover, the court must give the plaintiff the benefit of every reasonable inference to be drawn from those allegations. See Retail Clerks Int'l Ass'n v. Schermerhorn, 373 U.S. 746 (1963); Schrob v. Catterson, 948 F.2d 1402, 1405 (3d Cir. 1991). Accordingly, the court must resolve any ambiguities concerning the sufficiency of the claims in favor of the plaintiff. See Hughes v. Rowe, 449 U.S. 5, 10 (1980) (per curiam). Thus, the

"court may dismiss a complaint only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations." Hishon v. King & Spalding, 467 U.S. 69, 73 (1984)

IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES

The Prison Litigation Reform Act, 42 U.S.C. § 1997e(a), provides that

[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as available are exhausted.

(amended by Pub.L. 104-134, Title I, § 101(a), 110 Stat. 1321-71 (1996)). Section § 2636(g) of Title 18 of the United States Code defines "prison conditions" as "...the effects of actions by government officials on the lives of persons confined in prison...." Actions under this clause relate to "the environment in which prisoners live, the physical conditions of that environment, and the nature of the services provided therein." Booth v. Churner, C.O., 206 F.3d 289, 291 (3rd. Cir. 2000).

Taking all allegations in plaintiff's complaint as true, the action complained of is a "prison condition." Therefore plaintiff is required to exhaust administrative remedies, if any exist, before filing a complaint in federal court.

In the complaint, plaintiff acknowledges that a prisoner grievance procedure exists and that he "filed several grievances to be seen by an outside doctor, at the time of the accident." (D.I. 2). However, an affidavit by the DCC Grievance Hearing Officer states:

[T]he grievance records maintained at the Delaware Correctional Center [were researched] for any grievances filed by the Plaintiff for the years 1997 through the current date. The Plaintiff did not file any grievances during this time period.

(D.I. 20)

Although a prisoner's pro se complaints are held to "less stringent standards than formal pleadings drafted by lawyers," Estelle v. Gamble, 429 U.S. 97, 106 (1976), it cannot follow that a pro se litigant may circumvent this exhaustion requirement altogether. By applying § 1997e(a) without exception,³ the policies underlying the exhaustion requirements are promoted, that is, the agency involved is given the opportunity to discover and correct its own mistakes while conserving judicial resources. Nyhuis v. Reno, 204 F.3d 65, 75 (3rd. 2000).

Although plaintiff seeks monetary damages, a form of relief the prison system cannot provide, the Third Circuit does not allow for a futility exception to the PLRA's exhaustion requirement. Id. at 71. Plaintiff has failed to exhaust the

³ The court has found no caselaw supporting the proposition that exceptions should be made based upon the nature of the complaint.

administrative remedies available in the DCC. As such, his complaint must be dismissed.

V. CONCLUSION

Therefore, at Wilmington this 15th day of February 2001,

IT IS ORDERED that the motion to dismiss filed on behalf of defendants State of Delaware, Dr. Miller, Dr. Magsonic and Dr. Enoli is granted.

United States District Judge